

# **Exhibit 28**

KELLOGG, HANSEN, TODD, FIGEL & FREDERICK, P.L.L.C.

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December 7, 2018

*Via Electronic Mail*

Jed Glickstein  
Mayer Brown  
71 South Wacker Drive  
Chicago, IL 60606

Re: *In re Dealer Management Systems Antitrust Litigation*, MDL No. 2817

Dear Jed:

Thank you for your November 30 letter regarding CVR search terms, custodians, and RFP responses. We believe the parties are very close to a final resolution of all outstanding CVR discovery issues.

**Search Terms.**

Thank you for clarifying the source of the syntax error in Search Term 39. We are in agreement with the fix you propose. Thank you also for advising us of the syntax error in Search Term 79. We are in agreement with your modification.

We understand that you are now running a test on the revised terms we offered on November 29. Please provide the total, de-duped number of documents from the revised set as well.

**CVR Custodians.**

We disagree with your characterization of the history of our negotiations over custodians. We also disagree that our November 21, 2018 proposal did not materially advance the negotiations. In that letter, we requested that Jim Negrette be added as a seventh full document custodian, we dropped our request for John Roeder, and then we asked to add Chris Morris as a limited custodian for whom CVR only had to run a very narrow set of search terms. Moreover, Chris Morris and Scott Herbers are already full document custodians for CDK documents, and so there is only a marginal burden of also reviewing their documents for CVR purposes.

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We appreciate that, in your most recent correspondence, you have offered to add Chris Morris as a document custodian. But we still disagree with your wholesale rejection of our request to add Jim Negrette. As we have stated in previous correspondence, Jim Negrette played an important role in CVR's California operations; he also ran the technological aspects of CVR's California EVR business. His documents are undoubtedly relevant to MVSC's case.

Since CVR appears amenable a total of seven document custodians, we request the following seven individuals (six of whom we have already agreed upon):

1. Scott Herbers
2. Jim Quinlan
3. Janet Michaels
4. Jason Bonifay
5. Scott Dudley
6. Mark Kithcart
7. Jim Negrette

And then we simply ask for the addition of Chris Morris as a limited document custodian with just four search terms, as we indicated in our November 21 letter. Please let us know the total number of unique documents for Chris Morris that hit on our suggest search terms: "MVSC," "Motor Vehicle Software Corp\*," "CVR," and "DMVdesk."

Please let us know if this proposal resolves our dispute.

#### **RFP Responses.**

Thank you for accepting our proposals with respect to RFP No. 47 (CDK's or CVR's consideration or evaluation of whether to acquire EVR providers), RFP No. 58 (costs associated with entering new EVR market), RFP No. 92 (contracts with dealers for EVR services), RFP No. 94 (RCI or 3PA program), and RFP No. 95 (CVR's applications to participate in RCI or 3PA). With respect to the other RFPs:

- RFP No. 53 (California Assembly Bill No. 516): We continue to believe that this Request seeks information that is relevant to several issues in the case, including the harm caused by lack of access to data on Defendants' DMSs and the state of competition in the California EVR market. But in the spirit of compromise, we will accept your compromise offer to run the corresponding search terms we proposed and produce documents that are otherwise responsive to other Requests.
- RFP No. 68 (CVR's acquisition of AVRS): Thank you for confirming that documents sufficient to show (i) the terms and conditions of the transaction, and (ii) CVR's

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valuation of AVRS have already been produced. We accept your original compromise offer with respect to this Request.

- RFP Nos. 71 (communications with potential acquirers of CVR) and 84 (valuation of CVR): As we have stated previously, we believe both of these Requests are relevant to the state of competition in state EVR markets as well as damages. In the spirit of compromise, we propose narrowing both Requests to documents sufficient to show valuations of CVR performed in the context of any potential sale of any interest in CVR. Please let us know if this compromise is acceptable.
- RFP No. 93 (communications with other EVR providers): Your refinement of our compromise proposal is acceptable.
- RFP No. 97 (documents referring to complaints about Reynolds, RCI, CVR, CDK, or 3PA): We accept your proposal.
- Market-Based Limitations: As we have stated on our meet and confers, state markets beyond California, Illinois, Virginia, and Wisconsin are relevant to this case if Defendants' conduct impeded MVSC's ability to enter those markets. In the spirit of compromise, however, we accept your second proposal. The parties are now in agreement that CVR will produce documents in response to Requests 45 and 57 without market-based limitations, and that CVR will produce documents in response to Requests 36-43 for the California, Illinois, Virginia, and Wisconsin markets. To be clear, with respect to all other Requests to which CVR has agreed to produce documents, CVR must do so without market-based limitations.

Please let us know if this resolves the remaining few issues related to CVR discovery.

Kind regards,

*s/ Christine A. Bonomo*

Christine A. Bonomo